

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

BOBBY EZELL, #R65015,)
vs.)
Plaintiff,)) Case No. 21-cv-1434-SMY
AUSTIN NEIBEL,))
Defendant.))

MEMORANDUM AND ORDER

YANDLE, District Judge:

This matter is before the Court on the Report and Recommendation (“Report”) of United States Magistrate Judge Reona J. Daly (Doc. 87), recommending the denial of the motion for summary judgment for failure to exhaust administrative remedies filed by Defendant Austin Neibel (Doc. 73). No objections have been filed to the Report. For the following reasons, Judge Daly’s Report and Recommendation is **ADOPTED**.

When neither timely nor specific objections to a Report and Recommendation are made, the Court need not conduct a *de novo* review of the Report. *See Thomas v. Arn*, 474 U.S. 140 (1985). Instead, the Court reviews the Report for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Here, Judge Daly thoroughly discussed and supported her conclusions that Plaintiff exhausted his administrative remedies against Defendant prior to filing this lawsuit. The Court finds no clear error in Judge Daly’s findings, analysis and conclusions, and adopts her Report and Recommendation in its entirety.

Accordingly, Defendant’s motion for summary judgment for failure to exhaust

administrative remedies (Doc. 73) is **DENIED**. Plaintiff's claims Eighth Amendment claim against Defendant shall proceed.

IT IS SO ORDERED.

DATED: September 6, 2024

A handwritten signature of "Staci M. Yandle" in black ink. The signature is fluid and cursive, with "Staci" on the top line and "M. Yandle" on the bottom line. A circular official seal is positioned to the left of the signature, featuring an eagle, a shield, and the text "UNITED STATES DISTRICT JUDGE" and "SOUTHERN DISTRICT OF GEORGIA".

STACI M. YANDLE
United States District Judge